



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2013-0819; FRL-9927-48-Region 5]**

**Approval and Promulgation of Air Quality Implementation Plans;**

**Illinois; NAAQS Update**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve a State Implementation Plan (SIP) revision submitted by the Illinois Environmental Protection Agency (IEPA) on December 2, 2013. The state rule revisions update Illinois' ambient air quality standards for sulfur dioxide (SO<sub>2</sub>), ozone, nitrogen dioxide (NO<sub>2</sub>), lead, fine particulate matter (PM<sub>2.5</sub>), particulate matter (PM<sub>10</sub>), and carbon monoxide (CO) and bring them up to date (through 2012) with EPA-promulgated National Ambient Air Quality Standards (NAAQS). The SIP revision also adopts EPA-promulgated monitoring methods and test procedures for the revised state air quality standards.

**DATES:** This direct final rule will be effective **[insert date 60 days after publication in the Federal Register]**, unless EPA receives adverse comments by **[insert date 30 days after**

**publication in the Federal Register]**. If adverse comments are received by EPA, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2013-0819, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
2. E-mail: [Aburano.Douglas@epa.gov](mailto:Aburano.Douglas@epa.gov).
3. Fax: (312) 692-2450.
4. Mail: Douglas Aburano, Chief, Air Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Douglas Aburano, Chief, Air Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays?

*Instructions:* Direct your comments to Docket ID No.

EPA-R05-OAR-2013-0819. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of

encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Edward Doty, Environmental Scientist, at (312) 886-6057 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Edward Doty, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6057, [Doty.Edward@epa.gov](mailto:Doty.Edward@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background
  - A. When and why did the state make this submittal?
  - B. Did the state hold public hearings for this submittal?
- II. What is EPA's analysis of IEPA's submittal?
- III. What action is EPA taking?
- IV. Incorporation by Reference.
- V. Statutory and Executive Order Reviews.

**I. Background**

**A. When and why did the state make this submittal?**

Section 109 of the Clean Air Act (CAA) requires the EPA to establish national primary (protective of human health) and secondary (protective of human welfare) air quality standards. Individually or collectively these standards are referred to as NAAQS. Section 109(d)(1) of the CAA requires EPA to review, and if necessary, based on accumulated health or welfare data, to revise each NAAQS every five years. States that maintain state air quality standard definitions in their state rules and SIPs must periodically revise their rules and SIPs to reflect the latest NAAQS.

On December 2, 2013, IEPA submitted a SIP revision containing rule revisions to address the NAAQS for SO<sub>2</sub>, ozone, NO<sub>2</sub>, lead, PM<sub>2.5</sub>, PM<sub>10</sub>, and CO. In this submittal, the state requests EPA to approve into the SIP rule revisions to establish

Illinois air quality standards "identical-in-substance"<sup>1</sup> to all NAAQS promulgated by EPA for these pollutants and published in the Code of Federal Regulations (CFR) through the end of 2012. The rule revisions also incorporate by reference all EPA-promulgated Federal Reference Methods (FRMs) and Federal Equivalent Methods (FEMs) for monitoring the subject air pollutants, also specified in the CFR through 2012. The rule revisions remove state air quality standards no longer supported by current NAAQS. The rule revisions remove several existing Illinois rule elements deemed to be no longer appropriate for the adopted air quality standards and monitoring methods. Finally, the rule revisions add a number of acronym and term definitions needed to fully implement the adopted air quality standards and monitoring methods.

Illinois' rule revisions ensure consistency between the state and Federal definitions of the air quality standards and associated monitoring methods, and support consistency between the state and the EPA in the determination of attainment or nonattainment of the air quality standards.

---

<sup>1</sup> "Identical-in-substance" means that all air quality standards adopted by the state and included in the requested SIP revision have the same magnitude, averaging time, and form as the NAAQS they represent. However, the specific language of the state's air quality standard rules may differ from that of EPA's promulgated NAAQS.

The state rule revisions were adopted by the Illinois Pollution Control Board (IPCB) on July 25, 2013, and became effective on July 29, 2013.

**B. Did the state hold public hearings for this submittal?**

A public hearing on the rule revisions was held on June 26, 2013, and the state addressed several comments made during this hearing or received through written comments submitted by the public.

**II. What is EPA's analysis of IEPA's submittal?**

Illinois' submittal covers revisions to state rules contained in 35 Illinois Administrative Code (IAC) Part 243 (35 IAC 243). Significant additions, modifications, and deletions to Part 243 are discussed and evaluated below.

35 IAC Section 243.101, Definitions, contains term and concentration unit definitions critical to the implementation of the state's air quality standards. This section has been modified to change or add definitions of, terms including, but not limited to, "Exceedance of a NAAQS;" "Exceptional event;" "Federal reference method;" "Federal equivalent method;" "Micrograms per cubic meter;" "Milligrams per cubic meter;" "Parts per million;" "Parts per billion;" "PM<sub>10</sub>;" and "PM<sub>2.5</sub>." Definitions for these terms and concentration units were generally derived from their definitions and usage in 40 CFR

parts 50 and 53. We find these definitions to be acceptable and in agreement with definitions for these terms and concentration units used by the EPA.

The heading of 35 IAC Section 243.102, Scope, has been revised from "Preamble" to "Scope" to correspond with the Federal regulations. The former preamble statement in 35 IAC Section 243.102(a) has been replaced with the statement of scope from 40 CFR 50.2. This section also adds in parentheses "primary NAAQS" after "National primary air quality standards" and adds in parentheses "secondary NAAQS" after "National secondary air quality standards." All older subsections of this section have been deleted to remove provisions no longer needed to implement the state's air quality standards. This revised section is acceptable.

Section 243.103, Applicability, has been revised to improve its readability and notes that the adopted air quality standards are applicable throughout the entire state of Illinois.

The IPCB has chosen to repeal Section 243.104 (the Non-degradation Rule) from 35 IAC 243 and from the Illinois SIP. The Non-degradation Rule predates the Illinois Environmental Protection Act and adoption of the state's air quality standard rules. When adopting the air quality standard rules, the IPCB chose to adopt the Non-degradation Rule from earlier rules of



the Air Pollution Control Board (a predecessor of the IPCB). This rule section was intended to protect areas in Illinois currently attaining the air quality standards. The IPCB chose to remove this rule section from 35 IAC 243 because: (1) it might conflict with Federal non-degradation rules; (2) it is not necessary in the context of the NAAQS; and, (3) it was not possible to correct its flaws in the context of the state's air quality standard rules contained in 35 IAC 243. This rule removal is acceptable.

Section 243.105, Air Quality Monitoring Data Influenced by Exceptional Events, has been added to correspond with 40 CFR 50.14 (2012). This section provides for a state request to the EPA for a determination that certain monitored air quality concentrations that are the result of exceptional events may be excluded from the consideration of air quality for purposes of determining exceedances of the air quality standards. This section describes the nature of the state's exceptional event demonstration to the EPA and specifies the criteria that the exceptional event demonstration must meet for approval by the EPA. Of particular note, this section describes exclusion of air quality data resulting from fireworks and prescribed fires. Finally, this section describes the schedules and procedures to be followed when the state petitions the EPA for a determination

of an exceptional event. This section was derived from 40 CFR part 50, and is acceptable.

Section 243.106, Monitoring, which described the general approach to the monitoring of air quality levels, has been repealed. This section provided no specific criteria for the monitoring of air levels, and its removal is acceptable.

Section 243.107, Reference Conditions, has been revised to improve its readability and specifies the reference temperature and reference air pressure to which monitored air quality concentrations must be adjusted to assure acceptable comparability of the monitored air quality concentrations. The rule revision is acceptable and reflects ambient condition adjustments required by the EPA in 40 CFR part 50.

Section 243.108, Incorporation by Reference, includes Federal rules and documents incorporated by reference into Illinois' air quality rules. More specifically, this section includes the required reference methods applicable to the monitoring of specific pollutants as specified in the appendices to 40 CFR part 50 and documents published by the National Exposure Research Laboratory, Human Exposure and Atmospheric Sciences Division of EPA. In addition, this section incorporates by reference all appendices in 40 CFR part 50 needed to interpret the adopted air quality standards or to

define the FRMs and FEMs for each pollutant. These incorporations by reference are needed to implement the state's air quality standards in a manner equivalent to the NAAQS.

The air quality standards themselves are contained in sections 243.120 through 243.126, with each of these sections being applicable to a specific pollutant (each section covers all standards applicable to the given pollutant). Illinois has rewritten these sections to eliminate ambient air quality standards that have been revoked or eliminated by EPA and to add or update standards for each pollutant as currently adopted/promulgated by the EPA through 2012. Each section also defines the Federal reference and equivalent monitoring methods applicable to each pollutant. The state has rewritten the air quality standards to be "identical-in-substance" with EPA's promulgated NAAQS. The state's adopted air quality standards contain the same air quality levels, averaging times, and forms as the NAAQS, but have been rewritten for consistency in Illinois' rule system. All NAAQS contained in 40 CFR part 50 (2012) are reflected by the Illinois air quality standards now specified in sections 243.120 through 243.126. EPA has compared the adopted air quality standards to the NAAQS specified in 40 CFR part 50, and has found them to be acceptable.

### **III. What action is EPA taking?**

EPA is approving the requested SIP revision submission pertaining to the amendments to Illinois' ambient air quality standards since these revised air quality standards are consistent with the NAAQS promulgated by EPA and in existence during 2012. The state will adopt new air quality standards as new NAAQS are adopted by EPA and will subsequently remove/repeal certain air quality standards as EPA revokes the standards as NAAQS. Specifically, we are approving 35 IAC sections 243.101, 243.102, 243.103, 243.105, 243.107, 243.108, 243.120, 243.122, 243.123, 243.124, 243.125, 243.126, and 243.TableA, and we are incorporating by reference these rules into the Illinois SIP. We are also approving the repeal from the SIP of 35 IAC sections 243.104, 243.106, 243.Appendix A, 243.Appendix B, and 243.Appendix C.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective **[insert date 60 days after the date of publication in the Federal Register]** without further notice unless we receive relevant adverse written comments by **[insert**

**date 30 days after the date of publication in the Federal Register]**. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective **[insert date 60 days after the date of publication in the Federal Register]**.

#### **IV. Incorporation by Reference.**

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Illinois Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy

at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

**V. Statutory and Executive Order Reviews.**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those

areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b) (1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the



purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: May 4, 2015.

Susan Hedman,  
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. Section 52.720 is amended by adding paragraph (c) (204) to read as follows:

**§ 52.720 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(204) On December 2, 2013, Illinois submitted an amendment to its State Implementation Plan at 35 Illinois Administrative Code part 243, which updates Illinois air quality standards to reflect National Ambient Air Quality Standards for sulfur dioxide, ozone, nitrogen dioxide, lead, fine particulate matter, particulate matter, and carbon monoxide and incorporates Federal test procedures for these pollutants.

(i) *Incorporation by reference.* Illinois Administrative Code Title 35: Environmental Protection; Subtitle B: Air Pollution; Chapter I: Pollution Control Board; Subchapter 1: Air Quality Standards And Episodes; Part 243: Air Quality Standards; Sections 243.101 Definitions, 243.102 Scope, 243.103 Applicability, 243.105 Air Quality Monitoring Data Influenced by

Exceptional Events, 243.107 Reference Conditions, 243.108  
Incorporations by Reference, 243.120 PM10 and PM2.5, 243.122  
Sulfur Oxides (Sulfur Dioxide), 243.123 Carbon Monoxide, 243.124  
Nitrogen Oxides (Nitrogen Dioxide as Indicator), 243.125 Ozone,  
243.126 Lead, and 243.TABLE A Schedule of Exceptional Event  
Flagging and Documentation Submission for New or Revised NAAQS,  
effective July 29, 2013.

[FR Doc. 2015-12255 Filed: 5/19/2015 08:45 am; Publication Date:  
5/20/2015]